

KeyRealEstate

Always Get Agreements in Writing

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Contributing Columnists

Q: In weak moment, I signed a quitclaim deed on my home to a long-time friend who made certain promises, including a promise to pay the mortgages on the property that are in my name, as well as paying my expenses for two years.

I moved to a nearby town. My friend has made the mortgage payments regularly but has stopped paying my expenses. The home is rented and he gets the rent. My friend never recorded the deed because — believe it or not — transfer fees totaled \$5,500. I still appear online as the owner. My friend now ignores my calls.

I am disabled and in dire financial need. I want to sell the home and need the money to survive. Can I sell the property, or am I asking for more trouble? I want to move on this before my friend records the deed. I gave him the property for \$5 "out of friendship."

A: You say you gave the property to your friend. In reality, however, you entered into an arrangement to sell your property to your friend and in return he was to pay you money over time. Now your friend has failed to make good on his payments to you.

Now you want to sell the home, even though you conveyed title to your friend. There is no way to know how much this will cost, but you desperately need the help of an attorney to get you out of this mess.

Other than the quitclaim deed, did you get anything in writing? Did your friend ever pay your expenses? If he did, did you keep copies of those checks?

Let's go back to the beginning of your story. Was your "weak moment" a time when you were physically impaired and unable to make decisions for yourself? Did your friend take advantage of you? (By the way, it doesn't seem like this person is much of a friend.)

Your situation is messy and you need to sit down with someone to discuss it further. Take all of the papers you have that relate to the property, the transfer of the home, the tenant who lives there, cancelled checks from your friend, and any correspondence between you and your friend.

When you sit down with an attorney, you need to determine whether the deed was obtained by your friend through

illegal means, whether you can prove a contract with your friend for the money he owes, and whether you can place a lien on the home arising from the nature of your transfer of title.

The question of whether you can sell the property because your friend has failed to record the deed is interesting. In many parts of the country, if there are multiple deeds conveying title to a property, the first one to record the deed gets title to the home. However, in other cases, the first one to receive the deed prevails.

In many locales, the deed becomes effective on the date of delivery of the deed. However, if you were to convey title to another person and that person had no knowledge of the first deed, then the first person to record the deed would get title to the home.

Unfortunately, you've placed yourself in a bad situation and it may cost you to extricate yourself. Explain your financial predicament to the attorney. If there is a fair sum of money to be gained, he or she may be willing to take your case on a contingency basis. Good luck.

Q: I'm the successor trustee on my father's property. He recently passed away. I'm a married woman with a 12-year-old son from a previous marriage. From my understanding, holding title with my husband as community property vs. holding title in joint tenancy may be the best choice so I can leave the house to my son someday. Am I on the right track?

A: Our condolences on the recent loss of your father. If your goal is to leave your father's property to your son without your current husband having a claim on the home, you'll need to sit down with an estate-planning attorney. He or she may recommend that you place your father's property in a living trust that would transfer title to your son upon your death. You would select a trustee to administer the trust after your death, but the beneficiary/owner of the property would be your son.

If your current husband is on the title to your father's property, he will still be a part owner of the home when you die. If he isn't on the title and you die without a will, he will inherit a part of the home. Finally, if you do have a will, your husband could contest the will.

The estate-planning attorney can help you explore your options and plan for the future.

in 1985. Last sale date: Feb. 14, 2000 for \$350,000. Sale date: Nov. 17.

\$838,000 Frank, Howard R. and Elizabeth A. to Snyder, Stephen W. and Nancy E., 4835 Gulf of Mexico Dr., Westchester Apartments, Unit 202. 1,393 living sq. ft. Built in 1970. Last sale date: Mar. 28, 2003 for \$575,000. Sale date: Nov. 16.

\$495,620 Taylor Woodrow Homes Central Florida Division LLC to Beck, Jason R. and Jennifer, Lot 133, Palma Sola Trace. Sale date: Nov. 17.

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\$1,053,200. Sale date: Nov. 13.

\$1,132,560 Creekwood Investors Ltd to Lions Gate Gateway Development Inc, Pt 13-35-18. Sale date: Nov. 17.

\$1,053,188 Academy Park Villas LLC to Dc711 LLC, Academy Park, Unit 704, Block 7, Phase 5. Sale date: Nov. 13.

\$950,000 Harrison, G. Joseph and Kimberly A. to Howard, Charles P. and Kerri L., 124 NW 40th St. Ct. S., Lot 19, 20, Block C, Harbor Crest. 2,964 sq. ft. Built

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HARBORSIDE (#290612) - Build your dream home. This tropical enclave of homes interweaves elements from around the world into a magical tapestry framed against beautiful waterways. Situated on a premium lot (15,000 sq. ft.) with serene long water views. Private beach access & fantastic boating water for your yacht. \$1,950,000



THE BEACH RESIDENCE - RITZ CARLTON MANAGED (#328226) - Spectacular sunsets & premium location. 3 BR+den, 3,900 sq. ft. with lavish appointments, gourmet kitchen, travertine floors & coral stone fireplace. Outstanding services of Concierge, fitness center, theater & 2 guest suites. 3 contiguous parking spaces. \$3,750,000



WATER CLUB I (#316956) - Fabulously furnished & rarely available! Dramatic Dover model on the 9th floor w/perfection in every detail! The 3BR home leaves nothing to the imagination & features endless wrap around views of the Gulf & the city of Sarasota from 3 terraces. Light wood floors, 10' ceilings, luxurious kitchen & bath, private elevator & the best amenities Longboat has to offer. \$2,750,000



COUNTRY CLUB SHORES (#291357) PERFECT WATERFRONT HOME FOR YOU & YOUR YACHT. Entertain friends & family in this almost new residence featuring 3BR, new lift & boat hoist! Spectacular sailboat water! THIRD IN FROM THE BAY! Deeded Beach Access. Great value! \$1,495,000



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PRIVATEER (#327492) - Direct Gulf Front, hear the surf from this renovated 2nd floor home with panoramic 180° views of the Gulf, pool, Lido Key & Siesta Key from every room. Decorated in neutral colors. 2BR, 1,409 sq. ft. Electric hurricane shutters. TKF. \$1,049,000



RITZ CARLTON TOWER RESIDENCES ULTIMATE 180° VIEWS of Sarasota Bay! (#294544) - This open & generous layout, professionally designed & decorated, features 3,000 sq. ft., 3BR+family room, gourmet kitchen, private elevator, sprawling terrace, & 2 parking spaces. World-class amenities. Furnished. \$2,790,000



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